

Remarks

Claims 1-7 and 9-27 were pending in this application. Claims 1, 18, and 22 have been amended, and no claims have been added or canceled. Reconsideration of this application is respectfully requested in light of the above amendments and the following remarks.

Double Patenting

The Examiner has rejected claims 1-7 and 9-27 under obviousness-type double patenting as being unpatentable over claims 1-32 of U.S. Patent No. 6,036,049. Applicant previously responded to this rejection by filing a terminal disclaimer dated September 11, 2003 signed by Stephanie M. Mansfield; however, the Examiner contended that she was not an attorney/agent of record in the application. Applicant promptly provided evidence to the contrary, namely a copy of the Power of Attorney filed on April 28, 1999 in the parent application (U.S. Serial No. 09/028,822; now U.S. Patent No. 6,036,049) in which Stephanie M. Mansfield was listed. Since this information was reviewed by the Examiner after the filing of the terminal disclaimer, the Examiner submits that Ms. Mansfield was not an attorney/agent of record at the time of filing the terminal disclaimer. While Applicant respectfully disagrees, a new terminal disclaimer in compliance with 37 C.F.R. § 1.321(c) is filed concurrently herewith in order to expedite prosecution of this application. Therefore, reconsideration and withdrawal of this rejection is respectfully requested.

Specification

The specification has been objected to as failing to provide proper antecedent basis for the recitation in claim 1 that the pivot member is sized to receive the at least one engaging member "without requiring deflection of the at least one engaging member" and for the recitation in claim 27 that "the at least one engaging member is able to move freely past the pivot member" to allow the lid to become detachable from the pivot member. In response, Applicant has amended the specification to provide the proper antecedent basis for this claim language, support for which can be found at p. 8, lines 4-21 and in FIG. 9. No new matter

has been entered. Accordingly, Applicant respectfully requests reconsideration and withdrawal of this objection to the specification.

Rejection of Claims 18 and 27
Under 35 U.S.C. § 102(b) Over Huget

Claims 18 and 27 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 2,963,734 issued to Huget ("Huget"). In response, Applicant has amended claim 18 to more particularly point out and distinctly claim the subject matter of the invention.

Specifically, claim 18 now recites that "alignment of the engaging members and the engaged members allows for unobstructed removal of the lid when the lid is in an open position approximately 180° from the closed position," support for which can be found, for example, at p. 8, lines 17-21 of the specification and in FIG. 9. In contrast, Huget discloses a pivotal connector that "is released when the parts are brought into substantially co-planar position, then subjected to movement in a direction axially of the connector and then subjected to tension in a direction at right angles to the pivoting axis of the connector" (*see* Huget, col. 1, lines 58-63). As such, Huget's connector components must be forcibly manipulated to effect removal of one box part from another, and do not align to allow for unobstructed removal as in Applicant's claimed invention. Accordingly, claim 18 is believed to be patentably distinguishable over Huget, and reconsideration and withdrawal of this rejection under 35 U.S.C. § 102(b) is respectfully requested.

With reference to claim 27, Applicant respectfully traverses the rejection of this claim over Huget. Claim 27 recites that "when the lid moves to a second position approximately 180° from the first position, the at least one engaging member is able to move freely past the pivot member to allow the lid to become detachable from the pivot member." As explained above, Huget does not disclose or suggest that his connector components can move freely past one another to allow one box part to detach from the other, instead requiring relative axial movement of the components and applied tension. Therefore, claim 27 is also

believed to be patentably distinguishable over Huget, and Applicant respectfully requests reconsideration and withdrawal of this rejection.

Rejection of Claims 18-19

Under 35 U.S.C. § 102(b) Over Webb

Claims 18-19 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,685,567 issued to Webb ("Webb"). In particular, the Examiner asserts that Webb teaches the claimed container except for the plurality of pivot pins (Office Action, p. 8, ¶16). Applicant respectfully traverses this rejection for the reasons stated below.

In contrast to Applicant's claimed invention, Webb discloses only a tote box having a cover attached thereto by a conventional hinge pin 32 (*see* Webb, col. 3, lines 21-41). Cover lugs 29, 30 are centrally bored to receive and completely surround the hinge pin 32 (*see* Webb, FIG. 4), and Webb does not disclose or suggest removal of the lid (as admitted by the Examiner in the Office Action dated December 18, 2002). Furthermore, Webb does not disclose or suggest a pivot structure which prevents removal of the lid in a closed position and allows unobstructed removal of the lid in an open position approximately 180° from the closed position as in Applicant's claimed invention. Accordingly, Applicant believes that claim 18 is patentably distinguishable over Webb, and respectfully requests reconsideration and withdrawal of the rejection of this claim, and corresponding dependent claim 19, under 35 U.S.C. § 102(b).

Rejection of Claims 1-2, 5-7, 9-12, 18, and 27

Under 35 U.S.C. § 103(a) Over Daoud

Claims 1-2, 5-7, 9-12, 18, and 27 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,669,106 issued to Daoud ("Daoud"). In response, Applicant has amended claims 1 and 18 to more particularly point out and distinctly claim the subject matter of the invention.

Specifically, claim 1 has been amended to clarify that the pivot member is "sized to receive the lid edge over an outer circumference thereof without requiring deflection

of the at least one engaging member,” support for which can be found at p. 8, lines 11-21 of the specification and in FIGS. 9-10. This arrangement of Applicant’s pivot member and engaging member advantageously allow the lid to be removed from the container once the open position is reached without requiring any additional manipulation of the pivot and engaging members. In contrast to Applicant’s claimed invention, Daoud discloses a cover member 12 having a pivot pin 32 which is received within a cavity 26 of a first hinge body 22 of a base member 10 to allow cover member 12 to pivot relative to base member 10 about axis 30 (*see* Daoud, col. 3, lines 8-58; FIG. 1). At the engaging/disengaging position, “the cover member 12 can be moved longitudinally along the axis 30 to install the pivot pin 32 into, or remove the pivot pin 32 from, the cavity 26” (*see* Daoud, col. 4, lines 20-24; FIGS. 4A-4B). As such, Daoud does not disclose or suggest a hinge mechanism as claimed by Applicant wherein the engaging member is positioned over the outer circumference of the pivot member such that the lid can simply be lifted off the container in the open position, but rather requires relative longitudinal movement of pivot pin 32 and first hinge body 22 in order to disengage cover member 12 from base member 10. Accordingly, claim 1 is believed to be patentably distinguishable over Daoud, and Applicant respectfully requests reconsideration and withdrawal of the rejection of this claim, along with its corresponding dependent claims, under 35 U.S.C. § 103(a).

As described with reference to the rejections under 35 U.S.C. § 102(b), claim 18 has been amended to recite that “alignment of the engaging members and the engaged members allows for unobstructed removal of the lid when the lid is in an open position approximately 180° from the closed position.” For the reasons stated above, Applicant asserts that Daoud does not disclose or suggest this feature of Applicant’s invention, instead requiring longitudinal movement of the pivot pin 32 out of the cavity 26 in order to remove the cover member 12 from the base member 10. Therefore, claim 18 is believed to be patentably distinguishable over Daoud, and reconsideration and withdrawal of this rejection is respectfully requested.

Lastly, claim 27 recites that “when the lid moves to a second position approximately 180° from the first position, the at least one engaging member is able to move freely past the pivot member to allow the lid to become detachable from the pivot member.” As explained above, this feature of Applicant’s invention is not disclosed or suggested by Daoud, who instead discloses that upon reaching the second position, the pivot pin 32 remains engaged with the first hinge body 22 and the two parts must be moved longitudinally with respect to one another in order to remove cover member 12 from base member 10. Accordingly, claim 27 is also believed to be patentably distinguishable over Daoud, and Applicant respectfully requests reconsideration and withdrawal of this rejection under 35 U.S.C. § 103(a).

Rejection of Claims 3-4 and 19-20**Under 35 U.S.C. § 103(a) Over Daoud and Meade**

Claims 3-4 and 19-20 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Daoud in view of U.S. Patent No. 906,644 issued to Meade (“Meade”). Claims 3-4 and 19-20 depend from and contain all the limitations of claims 1 and 18, respectively, which, as explained above, are believed to be patentably distinguishable over Daoud, either alone or in combination with Meade. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

Rejection of Claims 13-17 and 21**Under 35 U.S.C. § 103(a) Over Daoud and Demurger**

Claims 13-17 and 21 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Daoud in view of U.S. Patent No. 4,989,747 issued to Demurger (“Demurger”). Claims 13-17 and 21 depend from and contain all the limitations of claims 1 and 18, respectively, which, for the reasons stated above, are believed to be patentably distinguishable over Daoud, either alone or in combination with Demurger. Therefore, Applicant respectfully requests reconsideration and withdrawal of this rejection.

Rejection of Claims 22-26

Under 35 U.S.C. § 103(a) over Daoud, Meade, and Demurger

Claims 22-26 have been rejected under 35 U.S.C. § 103(a) over Daoud in view of Meade and Demurger. In response, Applicant has amended claim 22 to recite, similar to claim 1, that “the lid edge is pivotally attached to the pivot member over an outer circumference thereof” (*see* p. 8, lines 11-21; FIGS. 9-10). As discussed above, Daoud does not disclose or suggest this hinge configuration, such that Daoud’s hinge mechanism is not capable of functioning as in Applicant’s invention wherein “when the lid moves to a second position approximately 180° from the first position, the at least one engaging member no longer obstructs the pivot member and the lid becomes detachable from the pivot member.” To the contrary, Daoud’s pivot pin 32 and first hinge body 22 remain engaged when the disengaging position of FIG. 4A is reached and must be manipulated along a longitudinal axis thereof in order to remove cover member 12. Furthermore, Meade and Demurger do not provide the disclosure lacking in Daoud. Accordingly, Applicant believes that claim 22 is patentably distinguishable over the combination of Daoud, Meade, and Demurger, and respectfully requests reconsideration and withdrawal of the rejection of this claim, along with dependent claims 23-26, under 35 U.S.C. § 103(a).

Conclusion

In summary, Applicant believes that the claims, as amended, now meet all formal and substantive requirements and that the case is in appropriate condition for allowance. Accordingly, such action is respectfully requested. If a telephone conference would expedite allowance of the case or resolve any further questions, such a call is invited at the Examiner's convenience.

Respectfully submitted,

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